

ESCROW AGREEMENT

THIS AGREEMENT, made as of the 11th day of July, 2023 (the "Effective Date") by and between Hershel Klein ("Klein") and Treff & Lowy PLLC ("Escrow Agent"). Klein and Escrow Agent are sometimes referred to herein as the "Parties" and each a "Party."

WHEREAS, on February 13, 2023, Erbo Properties LLC ("Erbo"), Kova 521 LLC ("Kova") and Gold Mezz LLC ("Gold Mezz" and collectively referred to with Erbo and Kova as the "Debtors") filed voluntary petitions for relief under Chapter 11 of the United States Bankruptcy Code with the United States Bankruptcy Court, Southern District of New York ("Bankruptcy Court"); and

WHEREAS, the Debtors' bankruptcy cases are being jointly administered in the case captioned *In re: Erbo Properties, LLC, et al.*, Case No. 12-10210 (LGB) (the "Chapter 11 Case"); and

WHEREAS, Klein has expressed a willingness to provide funding to Erbo to allow Erbo to develop real property located at 541 West 21st Street, New York, New York (the "Property") to be utilized as a migrant shelter as well as pay the real estate taxes for the Property due in July 2023; and

WHEREAS, Erbo requires funding from Klein to develop the Property to enable Erbo to enter into a Lease Agreement with Uline Holdings, LLC; and

WHEREAS, Erbo intends to file with the Bankruptcy Court (i) a proposed loan agreement (the "Loan Agreement"); (ii) a Lease with Uline Holdings LLC (the "Lease") whose ability to make rental payments is contingent on New York City providing funding to HHH for its rental payments on its sublease with Uline; and (iii) an application to retain professionals (the "Professionals") selected by Klein to do construction work necessary to meet New York City's requirements;

WHEREAS, Klein has agreed to place monies in escrow in anticipation of providing funding to Erbo under the terms and conditions set forth herein;

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

1. The above recitals are incorporated herein by reference.
2. Klein shall deposit the sum of \$5,000,000 (the "Escrow Amount") into the Attorney's Trust Account of Escrow Agent. The Escrow Amount shall be held in escrow by Escrow Agent in accordance with the terms of this Escrow Agreement. The acceptance by the Escrow Agent of the Escrow Amount constitutes the agreement of the Escrow Agent to the terms of this Escrow Agreement.

3. The Escrow Agent may only release the funds to the Debtors provided all of the following conditions have been met:

- (a) on or before July 24, 2023, the New York City Department of Buildings (“DOB”) shall have approved plans to develop the Property as a migrant shelter (the “Migrant Shelter Plans”);
- (b) on or before August 10, 2023, Klein shall have received a written commitment from the appropriate New York City Agency that, contingent on a New York City inspection of the Property confirming that construction has been done as specified in the Migrant Shelter Plans, it will provide the funds to HHH in amounts sufficient to make its sublease rental payments to Uline; and
- (c) on or before August 10, 2023, the Bankruptcy Court has entered final Orders, in form reasonably satisfactory to Klein, (i) authorizing Erbo to enter into the Loan Agreement with Klein, (ii) authorizing Erbo to retain the Professionals; and (iii) authorizing Erbo to enter into the Lease.

4. The Escrow Agent shall, if requested in writing by Klein, release the Escrow Amount to Klein upon the earlier of the following events:

- (a) the DOB rejects plans to develop the Property as a migrant shelter or does not approve them before July 24, 2023;
- (b) the Bankruptcy Court denies the Debtors’ Application To Extend The Deadlines Set Forth In The Court’s June 28, 2023 Scheduling Order; or
- (c) more than forty (40) days has elapsed from the Effective Date of this Agreement and all of the conditions set forth in paragraph 4(a), (b) and (c) have not been met.

5. Klein acknowledges and agrees that Escrow Agent is acting solely as a stakeholder. Escrow Agent shall have no duties other than those duties that are expressly set forth herein.

6. Unless otherwise provided in this Agreement, all notices or other communications required or permitted to be given under this Agreement shall be deemed given when delivered by overnight courier service to the following:

If to Klein:	Hershel Klein
	c/o Norris McLaughlin, PA
	Attn: Melissa A. Pena
	7 Time Square, 21st Floor
	New York, NY 10036
	mapena@norris-law.com

If to Escrow Agent:

Abe Lowy
Treff and Lowy
481 Wythe Ave 2nd Floor
Brooklyn, NY 11249
abe@trefflowy.com

7. This Agreement may not be clarified, modified, changed or amended except in a writing signed by each of the Parties.

8. The Parties have reviewed this Agreement and have participated in its drafting and, accordingly, no Party shall attempt to invoke the rule of construction to the effect that ambiguities, if any, are to be resolved against the drafting party.

9. This Agreement shall be governed by the laws of the State of New York.

10. This Agreement may be executed in counterparts, each of which shall be deemed an original and shall be deemed duly executed upon the signing of the counterparts by the Parties. Scanned or facsimile copies of this Agreement shall be deemed the same as originals.

[Signature page follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

Escrow Agent:

Treff & Lowy PLLC

By: /s/ Abraham Lowy

Print Name and Title: **Abraham Lowy, Member**

Hershel Klein

/s/ Hershel Klein